

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

Plaintiff, : Case No. 3:02-cr-037

-vs- : District Judge Walter Herbert Rice  
DERRICK LAMAR KIDD, Chief Magistrate Judge Michael R. Merz

Defendant.

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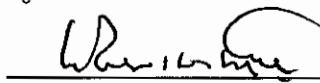
**ORDER ADOPTING REPORT AND RECOMMENDATIONS**

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The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. No. 58), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on August 18, 2005, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that Defendant's Motion to Set Aside Judgment (Doc. No. 56) be transferred to the Sixth Circuit Court of Appeals for a determination of whether it may be filed as a subsequent motion under 28 U.S.C. §2255.

August 29, 2005.

  
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Walter Herbert Rice  
United States District Judge